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LISA CIMARIK

**FILED**

MAY 29 2012

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND

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ADD

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

LISA CIMARIK,

Plaintiff,

vs.

DIVERSIFIED COLLECTION  
SERVICES, INC.; and DOES 1 to 10,  
inclusive,

Defendants.

Civil Case No.:

**C12-02713**

**COMPLAINT AND DEMAND FOR  
JURY TRIAL**

**(Unlawful Debt Collection Practices)**

**Demand Does Not Exceed \$10,000**

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**COMPLAINT AND DEMAND FOR JURY TRIAL**

**INTRODUCTION**

1. This is an action for actual and statutory damages brought by plaintiff Lisa Cimarik an individual consumer, against defendant Diversified Collection Services, Inc., for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (hereinafter "FDCPA") and the Rosenthal Fair Debt Collection

1 Practices Act, Cal. Civ. Code §§ 1788 *et seq.* (hereinafter “RFDCPA”), which  
2 prohibit debt collectors from engaging in abusive, deceptive, and unfair practices.

3  
4 **JURISDICTION**

5 2. Jurisdiction of this court arises under 15 U.S.C. § 1692k(d), Cal. Civ. Code §§  
6 1788.30, and 28 U.S.C. § 1331 and § 1337. Venue in this District is proper in that  
7 the Defendant transacts business here and the conduct complained of occurred  
8 here.  
9

10 **PARTIES**

11  
12 3. Plaintiff, Lisa Cimarik is a consumer, a natural person allegedly obligated to  
13 pay any debt, residing in the state of Florida.

14 4. Defendant, Diversified Collection Services, Inc. is a corporation engaged in the  
15 business of collecting debt in this state with its principal place of business located  
16 in Alameda County at 333 North Canyons Parkway, Suite 100, Livermore,  
17 California 94551. The principal purpose of Defendant is the collection of debts in  
18 this state and Defendant regularly attempts to collect debts alleged to be due  
19 another.  
20  
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22 5. Defendant is engaged in the collection of debts from consumers using the mail  
23 and telephone. Defendant regularly attempts to collect consumer debts alleged to  
24 be due to another. Defendant is a “debt collector” as defined by the FDCPA, 15  
25 U.S.C. § 1692a(6), and the Cal. Civ. Code § 1788.2.  
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**FACTUAL ALLEGATIONS**

6. Upon information and belief, within one year prior to the filing of this complaint, Defendant placed collection calls to Plaintiff, calls which displayed the intent to harass and annoy Plaintiff, seeking and demanding payment for an alleged consumer debt owed under an account number.

7. The debt that Defendant is attempting to collect on is an alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment.

8. Upon information and belief, Defendant began contacting Plaintiff and placing collection calls to Plaintiff prior to May 15, 2012.

9. Upon information and belief, within one year of the filing of this complaint, threatened to garnish Plaintiff's wages itself, when it cannot do so.

10. Upon information and belief, Defendant, within one year of this filing of this complaint, in connection with the collection of the alleged debt, asked Plaintiff's sister to relay a message to Plaintiff, without Plaintiff's consent; which is improper conduct with a third party who is not connected to Plaintiff's alleged debt.

1 11. As a result of the acts alleged above, Plaintiff suffered emotional distress  
2 resulting in Plaintiff feeling stressed, and embarrassed, amongst other negative  
3 emotions.  
4

5 **FIRST CLAIM FOR RELIEF**

6 12. Plaintiff repeats and realleges and incorporates by reference to the foregoing  
7 paragraphs.  
8

9 13. Defendant violated the FDCPA. Defendant's violations include, but are not  
10 limited to, the following:  
11

12 (a) Defendant violated §1692f of the FDCPA by using unfair or  
13 unconscionable means in connection with the collection of an  
14 alleged debt; and  
15

16 (b) Defendant violated §1692e(10) of the FDCPA by using false,  
17 deceptive, or misleading representation or means in connection  
18 with the collection of Plaintiff's alleged debt; and  
19

20 (c) Defendant violated §1692e(2)(B) of the FDCPA by falsely  
21 representing the services rendered or compensation which may be  
22 lawfully received by the Defendant for the collection of the alleged  
23 debt; and  
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25 (d) Defendant violated §1692e(5) of the FDCPA by threatening to  
26 take action that it did not intend to take; and  
27  
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1 (e) Defendant violated §1692c(b) of the FDCPA by contacting a third  
2 party in connection with the collection of the alleged debt without  
3 the consent of Plaintiff and without the contact being in a manner  
4 covered by §1692b of the FDCPA.  
5

6  
7 14. As a result of the foregoing violations of the FDCPA, Defendant is liable to the  
8 plaintiff Lisa Cimarik for actual damages, statutory damages, and costs and  
9 attorney fees.  
10

11 **SECOND CLAIM FOR RELIEF**

12 15. Plaintiff repeats and realleges and incorporates by reference the foregoing  
13 paragraphs.  
14

15 16. Defendant violated the RFDCPA. Defendant's violations include, but are not  
16 limited to the following:

17 (a) Defendant violated §1788.12(b) of the RFDCPA by  
18 communicating information regarding a consumer debt to a member  
19 of Plaintiff's family other than Plaintiff's spouse or parents in regard  
20 to the alleged debt; and  
21

22 (b) Defendant violated §1788.17 of the RFDCPA by being a debt  
23 collector collecting or attempting to collect a consumer debt that is not  
24 compliant with the provisions of Sections 1692b to 1692j of the  
25  
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1 FDCPA, the references to federal codes in this section referring to  
2 those codes as they read as of January 1, 2001.

3 17. Defendant's acts as described above were done intentionally with the purpose  
4 of coercing Plaintiff to pay the alleged debt.  
5

6 18. As a result of the foregoing violations of the RFDCPA, Defendant is liable to  
7 the plaintiff Lisa Cimarik for actual damages, statutory damages, and costs and  
8 attorney fees.  
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11  
12 WHEREFORE, Plaintiff Lisa Cimarik respectfully requests that judgment be  
13 entered against defendant Diversified Collection Services, Inc. for the following:

14 A. Actual damages.

15 B. Statutory damages pursuant to 15 U.S.C. § 1692k.

16 C. Statutory damages pursuant to Cal. Civ. Code § 1788.30.

17 D. Costs and reasonable attorney fees pursuant to 15 U.S.C. § 1692k and  
18 Cal. Civ. Code § 1788.30.  
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20 E. For such other and further relief as the Court may deem just and proper.  
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24 **DEMAND FOR JURY TRIAL**

25 Please take notice that plaintiff Lisa Cimarik demands trial by jury in this  
26 action.  
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RESPECTFULLY SUBMITTED,  
PRICE LAW GROUP APC

DATED: May 22, 2012

By: 

G. Thomas Martin, III  
Attorney for Plaintiff